

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LYNN M. DOOLEY)	
)	
Plaintiff,)	Case No.: 08 C 1192
)	
v.)	Judge St. Eve
)	
EVANSTON NORTHWESTERN)	Magistrate Judge Nolan
HEALTHCARE CORPORATION,)	
an Illinois Corporation, and)	
SUSAN R. BESAW, an individual,)	Trial By Jury Demanded
)	
Defendants.)	

INITIAL STATUS REPORT

Pursuant to Federal Rule of Civil Procedure 26(f), the parties submit their joint initial status report.

1. The Nature of the Case

A. The attorneys of record are:

Plaintiff: Michael J. Merrick (Lead Trial Attorney)
Merrick Law Firm LLC
150 N. Michigan Avenue, Suite 2700
Chicago, Illinois 60601
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merrick@merricklawfirm.com

Defendants: Ronald L. Lipinski (Lead Trial Attorney)
Meagan LeGear
Seyfarth Shaw LLP
131 S. Dearborn Street, Suite 2400
Chicago, Illinois 60603
Tel. (312) 460-5000

B. Basis for Federal Jurisdiction: Federal Question, 28 U.S.C. 1331, as the FMLA and ERISA claims arise under federal law. The Court has supplemental jurisdiction of the state law claims under 28 U.S.C. 1367.

C. Nature of Claims and Any Counterclaims: The following claims are set forth in plaintiff's First Amended Complaint: FMLA interference; FMLA retaliation; ERISA interference with health insurance benefits; Intentional Infliction of Emotional Distress under Illinois common law; tortious interference with employment expectancy under Illinois common law. There are no counterclaims.

D. Major Legal and Factual Issues:

Whether defendants failed to allow plaintiff to take full FMLA leave in order to care for her 10-year old son who suffered from a serious heart problem and subsequently received a heart transplant and if so, whether the violation was willful.

Whether defendant ENH refused to allow plaintiff to take full FMLA leave with the intention of forcing her to resign her employment and lose her and her family's health insurance benefits.

Whether plaintiff's tort claims are barred by the FMLA and/or the Illinois Workers' Compensation Act.

Whether plaintiff's tort claims state claims upon which relief can be granted.

E. Relief Sought by Plaintiff: Lost wages and benefits; liquidated damages; compensatory damages; punitive damages; interest, equitable relief, attorneys' fees and costs.

2. Pending Motions and Case Plan

A. Pending Motions: None. The parties reserve their rights to file motions for summary judgment if warranted.

B. Proposed Discovery Plan:

1. Type of discovery needed: Both sides will issue written paper discovery pursuant to Rules 33 and 34 and take depositions pursuant to Rule 30. Plaintiff will also issue requests for electronic discovery pursuant to Rule 34.

2. Subpoenas to Plaintiff's New Employer(s): Plaintiff requests that if Defendants determine that they need any information from Plaintiff's new employer(s), they will first seek such information from Plaintiff. Then if Defendants believe they still need to seek information from Plaintiff's new employer(s), Defendants will so advise Plaintiff and allow Plaintiff a reasonable amount of time to file an appropriate motion for protective order or to quash and receive a ruling from the court before Defendants issue any subpoenas or otherwise contact Plaintiff's new employer(s).

Defendants do not agree to this procedure. Defendants intend to conduct full discovery in accordance with the rules.

3. 26(a)(1) Initial Disclosures: By April 11, 2008.

4. Fact Discovery Completion Date: August 31, 2008.

5. Expert Discovery: Plaintiff's expert report by September 12, 2008; Defendants' expert report by September 26, 2008; Plaintiff's expert rebuttal report, if any, by October 10, 2008; expert depositions by November 7, 2008.

6. Dispositive Motions: Filed by December 15, 2008.

7. Pretrial Order: Filed within 30 days of the denial of any motion for summary judgment, or if no such motion is filed by January 16, 2009.

C. Regarding Trial:

1. Jury Trial Requested: Yes.

2. Probable Length of Trial: 4 to 5 days.

3. Ready for Trial: February 2009.

3. Consent to Proceed Before Magistrate Judge: The parties do not consent.

4. Status of Settlement Discussions

A. Whether Settlement Discussions have occurred: Yes, pre-suit.

B. Status of Settlement Negotiations: Pursuant to defendants' request, plaintiff provided a settlement demand, which defendants rejected. As a counterproposal, defendants stated that they would give plaintiff the opportunity to apply for rehire, which plaintiff declined.

C. Whether the parties request a settlement conference: The parties do not request a settlement conference at this time but may do so in the future.

Respectfully Submitted,

s/_____
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